

Electronic Monitoring and Crime Victims

Professor Edna Erez
University of Illinois at Chicago

CEP Conference
8 -10 November 2012
Balsta, Sweden



Today's Presentation:

- Electronic monitoring (EM)-- both RF and GPS-- and crime victims
- Focus on GPS and victims of domestic violence (DV), commonly intimate-partner violence, where specific victims may be in danger
- Policy implications for agencies that employ GPS or plan to use this technology in DV cases



Specific Questions About DV Victims Whose Abusive Partners Were Placed on GPS:

- What do victims find helpful?
- What do victims find problematic or even disturbing?
- What should be the role of victims in GPS for DV programs?
- What are the intended and unanticipated consequences of GPS for victims and other stakeholders?

Victims, Victimization, and EM

- Legally speaking, victims can be specific individuals and/or the public in general
- Specific victims are usually classified into three categories/circles: direct/primary, secondary (e.g. family members of direct victims) , and tertiary (e.g. the public in general)
- This presentation focuses on direct victims; however in many cases secondary (and sometimes even tertiary) victims are affected by the technology
- There is a tension between what is viewed as beneficial or harmful to the public (“society”), and what direct/primary victims consider beneficial or harmful

Domestic Violence and Women

- Domestic violence (DV) is a crime that cuts across age, ethnicity or race, and social strata
- The typical victims are women; men can also be victims, but their experience of victimization is different and does not involve the same level of fear and terror. The focus of this presentation is on female victims
- DV takes many forms, including verbal, physical, psychological and sexual abuse, stalking, vandalizing property, killing pets, harm to children, and fatalities

Domestic Violence and Women

- Battered women do not rush to report abuse; research shows that it takes months and years before they report DV to authorities
- Women report abuse when they reach the point of “enough is enough”
- When women report abuse, try to leave or separate, they are in a heightened risk level; “separation assault” is a well-known phenomenon in abusive relationships

The Use of GPS Technologies in Domestic Violence Cases in the U.S.

- Most U.S. programs apply GPS technologies in the pretrial stage, following an arrest, and for the period up to court disposition
- GPS technologies are commonly applied to bolster court-mandated “no contact” or protection orders; judges issue such orders following an arrest for assault, in response to a request from the prosecution, the victim or her advocates, or on judges’ own initiatives
- The post-arrest/pre-disposition period is highly volatile in DV cases-- batterers often seek out their estranged partners for repeat abuse, revenge, or to persuade them not to follow up with the complaint

The Significance of GPS Technologies in Domestic Violence Cases

- Abusive partners have major advantages in locating and harassing victims – they are well familiar with the woman’s daily routines, schedule, workplace, children’s school, family and friends, phone numbers, and the places she frequents
- A protection order is “only a piece of paper” if not bolstered by EM technologies. GPS technologies provide tangible evidence of the abuser’s whereabouts throughout the day/night
- Without tangible evidence of contact or attempt to contact, conviction is difficult as it is “his word against her’s”

Domestic Violence and Electronic Monitoring

- EM for DV includes two main types of monitoring-- RF and GPS
- RF is commonly used for home incarceration, during curfew hours. A receiver placed in the abuser's home records his presence at home during hours he is not allowed out. Batterers placed on GPS for DV are usually on RF during their curfew hours.
- In the past, the technology used to bolster protection orders was the Bilateral Electronic Monitoring (BEM). A receiver placed in the home of the victim detected the defendant's entry into the protected victim's zone, commonly her home (in a few cases, her workplace or the children's school)
- BEM did not track the movement of batterers, and was limited in terms of the number of exclusion zones it could cover-- the reasons behind the shift to using GPS as the preferred technology in DV cases

GPS for DV programs in the U.S.:

An Evaluation

The findings presented are based on a three-pronged evaluation study (Erez, Ibarra, Bales, and Gur, 2012), supported by a grant from the National Institute of Justice, U.S. Department of Justice. The study included:

- a. Quantitative examinations of *three* sites that applied GPS in DV cases. The study assessed the short- and long- term effects of GPS on defendants' compliance with program rules and repeat violence while on the GPS and during one year follow-up period.
- b. Qualitative examination of *six* GPS for DV programs across the U.S. through in-depth interviews with stakeholders who described their experiences with GPS for DV: defendants, victims, police officers, program administrators and staff, prosecutors, judges, defense attorneys, victim advocates (N=210)
- c. National survey of 149 pretrial agencies that apply GPS technologies describing their practices and experiences with GPS for DV

How do GPS for DV programs in the U.S. work?

- Following arrest, alleged aggressors usually enter GPS programs at the bond setting stage, as a condition of their release from jail; they usually are on the GPS until the final disposition of the case (conviction, acquittal, or dismissal of charges). Aggressors in most programs must move out of the home they shared with the victim and acquire new residence for the duration of their GPS enrollment
- Alleged aggressors/defendants on GPS for DV are subject to various rules and liberty restrictions (similar to probation or parole); they must abide by these rules if they wish to stay out of jail
- Defendants are assigned to a supervising officer to whom they must report and be accountable; they can go to work, if they have a job; otherwise they are confined to their new residence, with only a few weekly out hours for personal business (e.g. grocery shopping, doctor visits)
- Supervision levels vary in their intensity/restrictedness. Levels of intensity are dependent on the philosophy and due process conceptions of the agency, its staff's orientation or professional background, the defendant population that enters the program, level of resources etc.

How do GPS for DV programs in the U.S. work? (Cont'd)

- Extent of contact/communication between agencies and victims varies, from none to extensive. Some agencies have staff dedicated to working with victims, others do not.
- Agencies often tell victims that the purpose of the GPS is to deter batterers from contacting victims, not to protect victims. Normally victims do not carry any equipment, although some agencies offer victims cell phones (if they do not already have) to contact them when needed or for the victims to call when they feel they are at risk
- Duration of defendants' time on GPS varies between the jurisdictions examined, with an average of eight weeks* and a range of between a few days and almost two years (dependent on the time it takes to complete the trial)
- Most programs are designed to accommodate the situation and risk level of male DV offenders; Several U.S. GPS for DV programs were created in response to high-profile cases in which a man killed his intimate partner, despite a protection order in place

What Do Victims Like About Having Their Abusers on GPS?

- Victims reported relief from incessant abuse, control and harassment during the time their abuser was placed on GPS; “I got my life back” was a common response
- Victims appreciated the increased number of places they could visit, and the peace of mind they had knowing that their abuser could no longer ignore protection orders: “once he was put on the GPS and couldn’t contact me, I felt free.”
- Those who had prior experience of being battered but *without* the GPS recalled their frustration with law enforcement agents demanding proof of harassment. With GPS, victims noticed *the absence* of attempts to contact, harass, or abuse them

What Do Victims Like? (Cont'd)

- Victims appreciated receiving explanations about the program, the technology, its advantages and drawbacks; this information helped reduce their fear and anxiety
- Victims highly valued visits or calls by police or other agency staff, aimed at keeping victims posted about issues with the technology, or providing updates about the case
- Victims in jurisdictions that employed staff dedicated to victim concerns spoke highly of their experience with such staff; the option to call for advice or help on 24/7 basis was particularly appreciated

What Do Victims Like? (Cont'd)

In regards to exclusion zones:

- Victims appreciated having a say in selecting the areas that became exclusion zones
- Victims who wanted to conceal the details of their new residence welcomed the option of unknown exclusion zones (zones that by the victim request are not revealed to the aggressor, he would receive orders to move out of there if he approaches them)

What Do Victims Like? (Cont'd)

In regards to the impact of GPS on aspects of victim-defendant relationship:

- Victims with dependent children were pleased with having their abuser on GPS in lieu of jail; GPS allowed their partners to work and continue to fulfill his financial responsibilities for the family
- Some victims appreciated the behavioral and attitudinal changes they noticed in their partners as a result of being on GPS

What Do Victims Like? (Cont'd)

- Having their partners on GPS provided victims a sense of control over their relationships
- Some victims revealed that they visited, or even stayed overnight, at their intimate partner's new residence
- These victims expressed satisfaction that they could see the defendants “on their own terms”

What Do Victims Find Problematic?

- Many victims had only vague ideas about how the GPS works or its potential or pitfalls; those who did not receive proper explanations about the GPS were confused about relevant issues
- Victims whose abusers were controlling and manipulative were afraid that their partners would manage to “fool” or “rig” the technology
- Some victims expressed concerns that the GPS agencies are understaffed, or their staff is not savvy with the defendant’s devious ways, and unable to “connect the dots”

What Do Victims Find Problematic?

(Cont'd)

- Some victims were afraid that the GPS would place them in additional danger because the restrictions imposed on their abusers would “make them even more crazy”; these victims became hyper-vigilant, constantly checking their surroundings
- Victims whose aggressor/ defendant used proxies (e.g., current girlfriend, friends, or family members) to harass them, complained that the GPS could not prevent or detect the abuse
- In jurisdictions in which exclusion zones were narrowly drawn (i.e., around the victim’s residence), victims felt uncomfortable and anxious while walking in the neighborhood or even sitting on their balcony

What Do Victims Find Problematic?

(Cont'd)

- Victims who were technologically savvy feared that the equipment would malfunction, become disabled due to normal wear and tear, or that the abuser would not properly maintain the GPS device
- Some victims who requested unknown exclusion zones felt that organizational practices to protect them were paradoxically helping their abusers (e.g. giving defendants a map of the unknown zones, or unnecessary alerts to defendants to leave the area)
- Victims were upset when the GPS was removed (e.g., due to motions by the defense) without giving them advance notice

What Do Victims Find Problematic?

(Cont'd)

- Financial issues emerged in jurisdictions that required fees for GPS program participation; some victims complained that the fee their aggressor/partner had to pay ended up hurting them, as he could not fulfill his familial financial responsibilities (e.g., child support, rent, health insurance)
- In some cases, when victims wanted the partner/defendant to stay out of jail and keep working to support the family, the victims ended up paying for the GPS fees. This was particularly disturbing for victims who requested to lift the GPS requirement, as they did not feel the GPS was necessary (the partner did not pose any danger)

What Do Victims Find Problematic?

(Cont'd)

- Lack of visual evidence of monitoring (e.g. no receiver at their home) was a source of confusion for some victims
- In some cases, alert calls to victims became an unnecessary source of anxiety, after many calls turn out not to involve danger or “real” safety issues for the victim
- Some victims were conflicted as to whether alerts benefit them or cause them more anxiety; when alerts were frequent but did not involve danger, some victims lost trust in the GPS program

What Do Victims Find Problematic?

(Cont'd)

- Court proceedings in the context of DV and GPS enrollment raised various issues: judges easily accepting abusers' stories about entering or getting close to exclusion zones, or attorneys asking victims to reveal confidential information (e.g. doctor visits, address of babysitter)
- Problematic administration of GPS made some victims wonder whether the technology was designed to show that something was being done for the victims or to protect the justice system from liability

Unintended Benefits and Problems

- Jurisdictions that employ GPS for DV exhibited lower dismissal rates (or higher conviction rate) of DV cases due to the GPS --
 - Empowering victims to follow through with the case
 - Preventing abusers from intimidating or persuading their victims to drop their complaints (via “no contact”)
- Some jurisdictions use the GPS for non-DV related aims, such as releasing indigent DV defendants who cannot make bail (the net-widening phenomenon)

Lessons Learnt

- GPS for DV technologies are embedded within complex and fluid relationships; this context of changing emotions and needs requires that programs demonstrate vigilance, flexibility, and responsiveness to these changing circumstances
- The role of human supervision is paramount in providing victims peace of mind, preventing contact or repeat violence, and making the defendant's time on GPS a constructive rather than punitive experience
- Well designed and administered GPS for DV programs can be a “win-win” experience for all stakeholders, and particularly for victims

Policy Implications

- Understanding DV dynamics is critical for designing and administering effective GPS for DV programs
- Victims protection and safety concerns/principles should shape GPS program attributes and the application of GPS in DV cases
- Victim-defendant relationship and interactions must be taken into account when designing and administering aspects of GPS for DV programs
- GPS for DV programs need to reflect a balance between victim needs and circumstances, and defendants rights and interests

Policy Implications (Cont'd)

- Victim-centric programs, which view victims as a resource rather than a burden, explain program rules, listen to victims complaints, and maintain regular contact with them, are effective for several reasons:
 - Understanding program operation and practices reduces victims' anxiety, allays their fears, (e.g. when they see their abuser freely moving in the area) and generally improves victim safety
 - Informed victims acquire realistic expectations of GPS program capabilities and develop better safety plans
 - Victims are often a source of important information about the defendant routines, habits, or preferences; victims can also provide useful feedback on the functioning of the GPS and the aggressor/defendant's adaptation to it

Policy Implications (Cont'd)

- With victim safety in mind, the Council of Europe PCCP statement that “The type and modalities of electronic monitoring shall be proportionate in terms of duration and intrusiveness to the seriousness of the offence alleged” needs to be adapted to the circumstances of DV defendants in pretrial cases and the safety concerns of victims
- Mismatch between the offender circumstances/offense type/risk level and program restrictiveness/intrusiveness/duration is likely to produce in DV defendants a sense of injustice and be counterproductive in terms of the criminal justice aim of victim protection
- The limited (and costly) GPS technologies in DV cases should be dedicated to victim protection; they should not be used to accomplish non-DV-related criminal justice goals (e.g. reduce jail overcrowding)

References

Erez, Edna Peter R. Ibarra, William Bales and Oren M. Gur (2012) *GPS technologies and Domestic Violence: An Evaluation Study*. A report submitted to the National Institute of Justice, Washington DC.

<https://www.ncjrs.gov/pdffiles1/nij/grants/238910.pdf>

Erez, Edna and Peter R. Ibarra (2007) "Making your home a shelter: Electronic monitoring and victim re-entry in domestic violence cases." *British Journal of criminology*, 47(1):100-120

Erez, Edna, Peter R. Ibarra and Norman A. Lurie (2004) Electronic monitoring of domestic violence cases: A study of two bilateral programs" *Federal Probation*, June: 15-20.

Ibarra, Peter R. (2005), "Red flags and trigger control: The role of human supervision in an electronic monitoring program." *Sociology of Crime, Law, and Deviance* 6: 31-48

Ibarra, Peter R. and Edna Erez (2011) The Gendering of Pre-trial: women defendants on GPS in Domestic Violence Cases. A paper presented at the American Society of Criminology Annual Meeting, Washington DC. November.

Ibarra, Peter R. and Edna Erez (2005) "Victim-Centric Diversion: The electronic monitoring of domestic violence cases." *Behavioral Sciences & the Law*, 23(2): 259-276

Today's discussion

Thank you!

Professor Edna Erez
eerez@uic.edu

UIC The University of Illinois
at Chicago